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09/575094US03  
09/800,418  
Art Unit: 1711

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### REMARKS

#### 1. Amendments to the Specification

The replacement paragraph incorporates text from column 4, line 36-37, of U.S. patent 6,525,123 (or page 7, lines 14-15, of U.S. Patent application 09/575,094) into the present patent application. U.S. patent application 09/575,094, from which U.S. patent 6,525,123 was granted, falls within the priority chain of the present patent application. Applicants believe that no new matter has been introduced by the amendment to the specification made herein.

#### 2. Claim Status

After entering the claim amendments, claims 1, 5-8, 10-14, 19-21, 23-36, 39-40, 45, and 47-57 are pending and under consideration. Claims 2-4, 9, 15-18, 22, 37-38, 41-44, and 46 are canceled.

#### 3. Claim Amendments

Independent claims 1, 14, 36, and 40 have been amended to stipulate that "the oxygen scavenging polymer consists essentially of MXD6." Dependent claims 50, 52, 54, and 56 have been amended to remove matter made redundant by the amendments to claims 1, 14, 36, and 40.

Independent claims 1, 14, 36, and 40 have also been amended to stipulate that "the blend comprises from 5% to 30% oxygen scavenging polymer." This range is explicitly provided at column 4, lines 36-37, of U.S. patent 6,525,123; page 7, lines 14-15, of U.S. Patent application 09/575,094 (as filed). U.S. patent application 09/575,094, from which U.S. patent 6,525,123 was granted, falls within the priority chain of the present patent application.

Applicants believe that no new matter has been introduced by the claim amendments made herein.

#### 4. Claim Rejection – 35 U.S.C. § 102(e)

Claims 1, 5-8, 10-14, 19-21, 23-36, 39-40, 45, and 47-57 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Yang et al., U.S. Patent Number 6,525,123 ("Yang"). Specifically, page 3, lines 11-13, of the Office Action dated May 1, 2006, asserts that the "applicants lower end of the range of concentration of the oxygen scavenging polymer of 1% is not in 6,525,123 and applicants effective filing date is still 9-21-00.

As stated within the Office Action submitted on February 13, 2006, Applicants respectfully disagree with the characterization of Yang's disclosure presented in the Office Action dated August 12, 2005. However, to advance the prosecution of this application and to more distinctly claim the subject matter which the Applicants regard as their invention, Applicants have amended independent claims 1, 14, 36,

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and 40 to stipulate that "the blend comprises from 5% to 30% oxygen scavenging polymer." The range of "5% to 30% oxygen scavenging polymer" is explicitly provided at column 4, line 36, of U.S. Patent 6,525,123 and page 7, lines 14-15, of U.S. patent application 09/575,094 (as filed) from which U.S. patent 6,525,123 was granted. Therefore, the currently pending claims are entitled to claim domestic priority to Yang and the effective filing date of the presently pending claims is May 19, 2000. Consequently, Yang cannot be held as 35 U.S.C. §102(e) art against the currently pending claims. Applicants respectfully request that the 35 U.S.C. §102(e) rejection of the pending claims over Yang be withdrawn.

**5. Claim Rejection – 35 U.S.C. § 103(a)**

Claims 1, 5-8, 10-14, 19-21, 23-31, 34-36, 39-40, 45, and 47-49 have been rejected under 35 U.S.C. §103(a) as being obviated by Cyr et al., U.S. Patent Number 6,455,620 ("Cyr"). Specifically, the Office Action dated May 1, 2006, maintains the 35 U.S.C. §103(a) rejections provided at page 3, lines 4 et seq, of the Office Action dated June 1, 2004, and further states that "no claims have been rejected which exclude major amounts of oxygen scavenger not explicitly recited by the claims" and that "[o]nly claims drafted such as to fail to exclude other oxygen scavengers such as polyethers have been rejected over Cyr."

Applicants have amended the independent claims 1, 14, 36, and 40 to recite that "the oxygen scavenging polymer consists essentially of MXD6." Consequently, Applicants believe that pending claims are patentable over Cyr. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of the pending claims 1, 5-8, 10-14, 19-21, 23-31, 34-36, 39-40, 45, and 47-49 over Cyr be withdrawn.


**6. Final Remarks**

In conclusion, Applicants respectfully submit that all pending claims under consideration are in condition for allowance. The Examiner is invited to contact the undersigned patent attorney at (832) 813-4339 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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